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APPLICATION NO./ CONTROL NO.	FILED DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT PAPER

20060619

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Bryon P. Gehman
Primary Examiner
Art Unit: 3728

JUL 25 2006

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/761,254

Applicant(s)

GRIFFIN, CHARLES
EDWARD

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 13 March 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- 1. Amendments to the specification:
 - A. Amended paragraph(s) do not include markings.
 - B. New paragraph(s) should not be underlined.
 - C. Other The substitute specification has not been properly submitted.
- 2. Abstract:
 - A. Not presented on a separate sheet. 37 CFR 1.72.
 - B. Other _____.
- 3. Amendments to the drawings:
 - A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - C. Other _____.
- 4. Amendments to the claims:
 - A. A complete listing of all of the claims is not present.
 - B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - D. The claims of this amendment paper have not been presented in ascending numerical order.
 - E. Other: _____.
- 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
 - There is no signature of applicant on the response submitted 13 March 2006

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

1. The substitute specification filed March 13, 2006 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because: Applicant has submitted a substitute specification improperly, as the required statement that the specification contains no new matter has not been provided as required by 37 CFR 1.125(b), nor has a marked up version showing additions and deletions as well as a clean version as required by 37 CFR 1.125(c). The pertinent rules are provided below.

37 CFR 1.125 (b) Subject to § 1.312, a substitute specification, excluding the claims, may be filed at any point up to payment of the issue fee if it is accompanied by a statement that the substitute specification includes no new matter.

37 CFR 1.125 (c) A substitute specification submitted under this section must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown pursuant to this paragraph.

2. New drawings were received on March 13, 2006. These drawings are disapproved, as the rules for properly submitting new drawings have not been followed.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. **An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper.** Each drawing sheet submitted after the

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filings date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and within the top margin.

Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheet(s) must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change(s) to the drawings.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

3. It appears to the examiner that applicant's reason for amending the specification and drawings is the election of species required in the last Office action. There is no need to amend the specification and drawings to remove the non-elected species, and **applicant is advised to forego any changes to the specification and drawings**

solely for this reason. If other changes to the specification and drawings are deemed necessary in applicant's opinion, the rules as explained above need to be followed. However, no new matter (disclosure unsupported by the specification as originally filed) may be added to the specification that changes the nature of the claimed subject matter, either by addition of description or removal of pertinent description.

4. Applicant additionally is required to submit an argument and/or comment under the heading "Remarks" pointing out disagreements with the examiner's contentions (rejections). Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them. **Applicant appears to be canceling a claim and amending the specification and drawings solely in view of the election of species requirement. However, applicant has not expressly explained what he is doing or why. He must specifically state which of the two species he is electing, as required in the last Office action mailed September 13, 2005 in paragraph 7, lines 6-10, and identify which claims read on the elected species. It is not necessary to cancel any claims directed to the non-elected species, as they will merely be withdrawn, although applicant may do so.** The specification should not be altered either solely for this reason.

5. The proposed reply filed on March 13, 2006 in its entirety has not been entered because it is unsigned. **A new copy of all the necessary previously submitted papers (Claims and Abstract), plus a "Remarks" section with a signature**

provided on the last page of the "Remarks" section is required. If, after consideration of this action, the substitute specification and drawings are agreed by applicant to be unnecessary, they may be omitted in the response to this action, and therefor will not require applicant to follow the special rules for submitting those portions as outlined above.

6. Since the above mentioned reply appears to be *bona fide*, applicant is given a TIME PERIOD of **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME LIMIT MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 7:30am to 5:00pm Eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG